

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

FILED

AUG 28 2008

UNITED STATES OF AMERICA

Venue: San Francisco

V.

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL COMPLAINT

CASE NUMBER:

ALFONSO CHAVEZ-CABRERA
a/k/a ALFONSO CABRERA CHAVEZJCS
3 08 70572

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about August 22, 2008 in San Francisco County, in the Northern District of California defendant,

ALFONSO CHAVEZ-CABRERA, a/k/a ALFONSO CABRERA CHAVEZ an alien, after having been removed, excluded, and deported from the United States, was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a Deportation Officer
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 10 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes NoWarrant of Arrest Requested: Yes NoBail Amount: NO BAIL

Sworn to before me and subscribed in my presence,

6/28/08

at San Francisco, California

City and State

Honorable Joseph C. Spero
United States Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
 CITY AND COUNTY OF SAN FRANCISCO) ss, AFFIDAVIT
)

I, Mario E. Huelga, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against ALFONSO CHAVEZ-CABRERA, a/k/a ALFONSO CABRERA CHAVEZ for violating 8 U.S.C. § 1326. The facts set forth in this Affidavit are based on my review of OROZCO-ESPINOSA'S official Immigration file (No. A99 473 016), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all of the facts related to CHAVEZ-CABRERA that I know.

II. AGENT'S BACKGROUND AND EXPERTISE

2. I have been a Deportation officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately three (3) years. Prior to that I was an Immigration Enforcement Agent with the U. S. Department of Homeland Security, Immigration and Customs Enforcement, formerly the United States Department of Justice, Immigration and Naturalization Service for approximately four (4) years. I am currently assigned to ICE's Violent Alien Criminal Section, San Francisco, California, Field Office, and I am responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

III. APPLICABLE LAW

3. Title 8 U.S.C. § 1326 provides criminal penalties for "any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act"

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. ALFONSO CHAVEZ-CABRERA, a/k/a ALFONSO CABRERA CHAVEZ is a thirty-one (31) year-old male who is a native and citizen of Mexico. ALFONSO CHAVEZ-

CABRERA was deported from the United States to Mexico on May 01, 2006, and August 11, 2006.

5. Prior to his most recent deportation on August 11, 2006, CHAVEZ-CABRERA was convicted of two felony offenses. He was convicted of possession of a controlled substance in violation of California Health and Safety Code section 11377(a) on June 29, 2001, and was convicted of possession of a controlled substance in violation of California Health and Safety Code section 11350(a) on June 10, 2003.

6. CHAVEZ-CABRERA last entered the United States illegally in November 2007, by voluntarily crossing into Arizona through the international border with Mexico by foot. CHAVEZ-CABRERA knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

7. The official Immigration file for CHAVEZ-CABRERA contains two executed Warrants of Removal. The Warrants of Removal are dated May 01, 2006 and August 11, 2006.

8. On or about August 22, 2008, an Immigration and Customs Enforcement (ICE) agent encountered CHAVEZ-CABRERA pursuant to his release from the Sonoma County Jail in Santa Rosa, California on unrelated charges.

9. On August 22, 2008, ICE Agent Jonathan Bugayong interviewed CHAVEZ-CABRERA at the ICE San Francisco Field Office located in San Francisco, California. After CHAVEZ-CABRERA was advised of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, he admitted that his true name was ALFONSO CHAVEZ-CABRERA, a/k/a ALFONSO CABRERA CHAVEZ; admitted that he was a citizen and national of Mexico; and admitted that he had been previously deported from the United States. He also admitted that he illegally reentered the United States in November of 2007.

10. On August 22, 2008, at the ICE San Francisco Field Office, CHAVEZ-CABRERA'S fingerprints and photos were submitted into the Auto Biometric Identification System (IDENT). IDENT information confirmed CHAVEZ-CABRERA'S identity under Fingerprint Identification Number (FINS) 18570533 and 902256336.

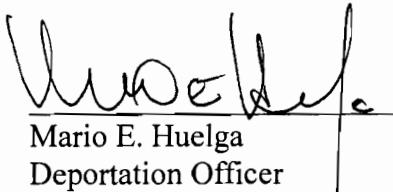
11. On August 27, 2008, a full set of rolled fingerprints belonging to CHAVEZ-CABRERA was submitted to the Automated Fingerprint Identification Center ("AFIS"), for further verification of the identity. Along with the full set of prints belonging to CHAVEZ-CABRERA, the single print appearing on each of the two Warrants of Removal (executed August 11, 2006, and May 01, 2006) for CHAVEZ-CABRERA were all submitted for comparison. The fingerprint examiner positively identified the fingerprints as belonging to the same CHAVEZ-CABRERA who had previously been removed from the United States on May 01, 2006. The fingerprint examiner also indicated that FINS number 18570533 has been merged with FINS

number 902256336.

12. There is no indication in ICE's official files that CHAVEZ-CABRERA has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary of Homeland Security.

V. CONCLUSION

13. On the basis of the above information, I submit that probable cause exists to believe that ALFONSO CHAVEZ-CABRERA, a/k/a ALFONSO CABRERA CHAVEZ illegally reentered the United States following deportation, in violation of 8 U.S.C. § 1326.



Mario E. Huelga
Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
San Francisco, California

Subscribed and sworn to before me this 28th day of August, 2008.



The Honorable Joseph C. Spero
United States Magistrate Judge
Northern District of California
San Francisco, California